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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,907	08/21/2003	Hans Boeck	Q74473	6445

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EXAMINER
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MCCALL, ERIC SCOTT

ART UNIT	PAPER NUMBER
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2855

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/644,907

Applicant(s)

BOECK ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133) Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1,2,8-12,14-19 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 3-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**TEST STAND WITH TIPPING DEVICE FOR MOTOR VEHICLES**

**NON-FINAL OFFICE ACTION**

In response to the Applicant's Request for Continued Examination with amendment dated Feb. 26, 2007.

**CLAIMS**

**35 U.S.C. § 112**

***(First Paragraph)***

In view of the Applicant's amendments, all of the rejections under 35 U.S.C. 112, first paragraph, as set forth in the previous office action (11/24/2006) have been overcome.

Art Unit: 2855

*(Second Paragraph)*

In view of the Applicant's amendments, all of the rejections under 35 U.S.C. 112, second paragraph, as set forth in the previous office action (11/24/2006) have been overcome.

35 U.S.C. § 102(b)

In view of the Applicant's amendments, the rejection of claims 1, 2, 8, 9, 11, 12, 14, 15, and 21 under 35 U.S.C. 102(b) over Taylor (2,929,519) as set forth in the previous office action (11/24/2006) has been overcome.

35 U.S.C. § 103

In view of the Applicant's amendments, the rejection of claims 16-19 under 35 U.S.C. 103(a) over Taylor (2,929,519) as set forth in the previous office action (11/24/2006) has been overcome. However, the following now applies:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 8-12, 14-19, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the previously cited prior art of Borg (3,827,289).

With respect to independent claims 1, 11, and 16 and dependent claims 12, 19, and 21, Borg suggests a test stand for motor vehicles having a tipping device comprising:

- a lower frame unit (12);
- an upper unit (22-28 & 32-38) configured to tip relative to the lower frame unit; and
- four lifting units/means (18), respectively disposed in corner zones, each of the lifting units including a respective piston rod (20) oriented substantially orthogonal to the upper unit when in a non-extended position, and extendible in a direction at least substantially orthogonal to the lower frame unit and connected to the upper frame, and operable to tip the upper unit.

However, Borg fails to set forth that the upper units (22-28 & 32-38) are an upper *frame* unit as claimed.

Nonetheless, it would have been obvious to one having ordinary skill in the art armed with said teaching to interpret the upper units (22-28 & 32-38) of Borg as an upper frame unit as claimed.

The motivation being that the units are in direct communication with the chassis of the vehicle (col. 8, lines 5-59) and thus are all in communication with one another in the very same manner than if the units were connected together (ie. comprising a frame) without the presence of a vehicle chassis.

With respect to dependent claims 2, 8, 14, 15, 17, 18, 22, 23, Borg clearly sets forth the claimed subject matter thereof.

With respect to claim 9, Borg suggests a central control unit as claimed (col. 8, lines 62-64).

With respect to claim 10, the test stand of Borg is interpreted as an “electronic stability program test stand” as claimed because the claim sets forth no distinguishing characteristics of such a test stand over the test stand of the prior art.

Allowable Subject Matter

Claims 3-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 has been found to be allowable over the prior art.

**CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall  
Primary Examiner  
AU 2855  
April 27, 2007